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July 11, 1999

Bureau of Consumer Protection  
(Mercedes Kelly)

SUBJECT: FTC REVIEW OF THE FUNERAL RULE

REF: (a) Regulatory review: April 30, 1999 published by the FTC, 600 Pennsylvania Ave. NW, Washington D.C. 20580

1. In accordance with ref (a) the following is submitted for appropriate action.
2. If there are any further questions, please call (909) 686-0501 or (760) 244-8414. Thanks, Al Barnes

**ITEM: THE FUNERAL RULE**

Discussion: As published the FUNERAL RULE needs improvement. Casket Retailers, Monument Dealers, Burial Vault and Liner Manufacturers and Cemeteries should adhere to the FUNERAL RULE as it pertains to their portion of the funeral industry. This change will legitimize all businesses plus be the enforcement instrument of the funeral industry.

Recommendation: Change the FUNERAL RULE to regulate the aforementioned industries. As mentioned, this will legitimize the entire death care business and also be the cornerstone to implement investigations, punishments or fines. Also, through the nature of a professional code of business conduct, the "bad apples" will be exposed and weeded out.

**ITEM: PRICE MATCHING OF CASKETS AND SERVICES**

Discussion: Most corporate owned funeral homes will lower prices of funeral goods and services to those customers that demonstrate that they plan to use a third party Casket Retailer or another funeral home. This is called their "no walk" policy. This is illegal in that it subverts the purpose of the General Price List and/or the Casket Price List by not offering these discounts/fees to all customers. In other words, only customers that want a choice in goods and services are the targets of the lower prices-not the general public.

Recommendation: That the non-declineable fee be regulated to the point of dollar limits or that it be done away with entirely. Most corporate owned funeral homes outrageously price all goods and services. That they utilize both the options as discussed in the FUNERAL RULE to cover all overhead plus gouge the public at the worst time of their lives.

**ITEM: FUNERAL RULE OFFENDERS PROGRAM**

Discussion: In the past the National Funeral Directors Association has an agreement with the FTC to police their own members when an infraction of the FUNERAL RULE has been violated. Is this same courtesy going to be extended to Cemeteries, Casket Retailers, Monument Makers and Burial Vault and Liner Associations? I think not and nor should it be. For an organization to conduct in house investigations, is one thing. For that same organization to carry out punishment it is not. Punishment is almost non-existent due to friendships, nepotism and contributions etc.

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**Recommendation:** That this program be abolished by the FTC. For an organization to do an "in-house" investigation is up to that organization. However, the FTC should be accountable for any infraction against the **FUNERAL RULE** and impose punishment if it is necessary. States are too closely associated with unions, lobbyists and fraternal organizations to be counted on as impartial judges. Plus most states have funeral directors on the committees and sub-committees of Consumer Affairs Departments. The FTC makes and enforces the rules! Clear cut and dry.

**ITEM: REQUIRED PURCHASES**

**Discussion:** Most funeral homes offer to the public, an itemized list as well as a packaged list of the same goods and services at a cheaper price. At face value, this is good for the public at large. The problem begins when the package price is only offered to those customers that purchase a casket through the funeral home. This practice violates the spirit and intent of the **FUNERAL RULE** (p. 30-31). These so called packages are a "sham" discount and are based on "bundling" the prices of the goods and services to the casket sale.

**Recommendation:** That this practice be stopped immediately by the FTC or the offenders will be prosecuted immediately. This way of doing business is not a legitimate discount, but a veiled attempt to charge a reverse "handling" fee. The end result is that the customer continues to pay more at these funeral homes due to misrepresentation of the pricing of goods and services.